

AMENDED IN SENATE SEPTEMBER 5, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY APRIL 12, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1078

Introduced by Assembly Member Lieber
(Principal coauthor: Senator Alquist)
(Coauthor: Assembly Member Swanson)

February 23, 2007

An act to amend Sections 11155.2, 11155.4, 11155.6, 11322.6, and 15204.6 of, and to add Section 11322.5 to, the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as amended, Lieber. CalWORKs: eligibility: income and assets.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states, with California's version of this program being known as the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

Existing law provides for the CalWORKs program, under which each county provides cash assistance and other benefits to qualified

low-income families and individuals who meet specified eligibility criteria.

Existing law imposes limits on the amount of income and personal and real property, including savings accounts, that an individual or family may possess in order to be eligible for aid under the CalWORKs program. Under existing law, principal and interest in designated federally created retirement or college savings plans held by existing CalWORKs recipients, but not new applicants, are excluded as property for purposes of redetermining eligibility and the amount of assistance.

This bill would delete the maximum amount of savings and interest that a CalWORKs recipient would be permitted to retain. The bill would extend the provisions excluding from income the principal and interest in the designated federal savings plans to CalWORKs applicants.

By increasing duties of counties administering the CalWORKs program, this bill would impose a state-mandated local program.

Federal income tax laws allow a refundable federal Earned Income Tax Credit (EITC) for low-income individuals that meet specified requirements.

This bill would declare the intent of the Legislature to maximize the abilities of CalWORKs recipients to benefit from, and be educated about, the EITC, as specified. The bill would impose various duties on the State Department of Social Services in this regard, and would authorize counties administering the CalWORKs program that choose to participate to take specified actions, in order to carry out this intent.

Existing law, contingent on a Budget Act appropriation, provides for a Pay for Performance Program to provide additional funding for counties that meet specified welfare-to-work improvement standards.

This bill would revise the Pay for Performance Program to include, *only if and to the extent that a specified determination is made by the department*, an improvement standard for counties with ~~an approved federal EITC outreach plan, as defined~~ *a percentage of county CalWORKs cases with earned income that equals or exceeds a specified income level, as provided.*

Existing law continually appropriates money from the General Fund to pay for a share of aid grant costs under the CalWORKs program.

The bill would declare that no appropriation would be made for purposes of the bill pursuant to the provision continuously appropriating funds for the CalWORKs program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11155.2 of the Welfare and Institutions
2 Code is amended to read:
3 11155.2. (a) In addition to the personal property permitted by
4 this part, recipients of aid under CalWORKs shall be permitted to
5 retain savings and interest thereon for specified purposes. Interest
6 earned from these savings and deposited into a restricted account
7 shall be considered exempt as income for purposes of determining
8 eligibility for aid and grant amounts if the interest is retained in
9 the account. If the interest is not deposited by the financial
10 institution into the account, the interest shall be treated as a
11 nonqualifying withdrawal of funds from the account as specified
12 in subdivision (b). This section shall not apply to applicants. Funds
13 may be used by the family for education or job training expenses
14 for the account holder or his or her dependents, for starting a
15 business, or for the purchase of a home. Recipients who wish to
16 retain savings for these purposes shall enter into a written
17 agreement with the county to establish a separate account with a
18 financial institution, with the account to be used solely for the
19 purpose of accumulating funds for later withdrawal for a qualifying
20 expenditure. A qualifying expenditure shall be defined by
21 department regulations and shall be verified by the recipient. The
22 recipient shall agree to provide periodic verification of account
23 activity, as required by department regulations. The agreement
24 shall notify the recipient of the penalty for nonqualifying
25 withdrawal of funds.
26 (b) Any nonqualifying withdrawal of funds from the account
27 shall result in a calculation of a period of ineligibility for all persons
28 in the assistance unit, to be determined by dividing the balance in

1 the account immediately prior to the withdrawal by the minimum
2 basic standard of adequate care for the members of the assistance
3 unit, as set forth in Section 11452. The resulting whole number
4 shall be the number of months of ineligibility. The period of
5 ineligibility may be reduced when the minimum basic standard of
6 adequate care of the assistance unit, including special needs,
7 increases.

8 (c) If the California Savings and Asset Project is established
9 pursuant to Chapter 17 (commencing with Section 50897) of Part
10 2 of Division 31 of the Health and Safety Code, then to the extent
11 permitted by federal law, a recipient shall be eligible to receive
12 matching funds derived from federal contributions for the purpose
13 of establishing an individual account in an amount not to exceed
14 three thousand dollars (\$3,000) in addition to the amounts specified
15 in subdivision (a) and a fiduciary organization may provide
16 amounts in excess of the first three thousand dollars (\$3,000)
17 limitation if contributed solely through private sources.

18 SEC. 2. Section 11155.4 of the Welfare and Institutions Code
19 is amended to read:

20 11155.4. The principal and interest in an individual
21 development account established in accordance with the federal
22 requirements of Section 604(h) of Title 42 of the United States
23 Code or established by a statewide individual development account
24 program shall be exempt from consideration when determining or
25 redetermining eligibility and the amount of CalWORKs assistance.

26 SEC. 3. Section 11155.6 of the Welfare and Institutions Code
27 is amended to read:

28 11155.6. (a) ~~The (1) The principal and interest in a 401(k)~~
29 ~~plan, 403(b) plan, or 457 plan shall be excluded from consideration~~
30 ~~as property when determining eligibility and the amount of~~
31 ~~assistance with respect to an applicant for benefits who is not a~~
32 ~~recipient of CalWORKs benefits.~~

33 (2) The principal and interest in a 401(k) plan, 403(b) plan, IRA,
34 457 plan, 529 college savings plan, or Coverdell ESA, shall be
35 excluded from consideration as property when ~~determining or~~
36 ~~redetermining eligibility and the amount of assistance for applicants~~
37 ~~and recipients of CalWORKs benefits.~~

38 (b) For purposes of this section, the following terms have the
39 following meanings:

1 (1) “401(k) plan” means a deferred compensation plan that
2 satisfies the requirements of Section 401(k) of the Internal Revenue
3 Code.

4 (2) “403(b) plan” means a qualified annuity plan that satisfies
5 the requirements of Section 403(b) of the Internal Revenue Code.

6 (3) “IRA” means an individual retirement account that satisfies
7 the requirements of Section 408 of the Internal Revenue Code.

8 (4) “457 plan” means a deferred compensation plan that satisfies
9 the requirements of Section 457 of the Internal Revenue Code.

10 (5) “529 college savings plan” means a qualified tuition program
11 that satisfies the requirements of Section 529 of the Internal
12 Revenue Code.

13 (6) “Coverdell ESA” means an education savings account that
14 satisfies the requirements of Section 530 of the Internal Revenue
15 Code.

16 SEC. 4. Section 11322.5 is added to the Welfare and
17 Institutions Code, to read:

18 11322.5. (a) It is the intent of the Legislature to do each of the
19 following:

20 (1) Maximize the ability of CalWORKs recipients to benefit
21 from the federal Earned Income Tax Credit (EITC), including
22 retroactive EITC credits and the Advance EITC, take advantage
23 of the earned-income disregard to increase their federal Food Stamp
24 Program benefits, and accumulate credit toward future social
25 security income.

26 (2) Educate and empower all CalWORKs participants who
27 receive the federal EITC to save or invest part or all of their credits
28 in instruments such as individual development accounts, 401(k)
29 plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans,
30 restricted accounts pursuant to subdivision (a) of Section 11155.2,
31 or 529 plans, and to take advantage of the federal Assets for
32 Independence Program and any other matching funds, tools, and
33 training available from public or private sources, in order to build
34 their assets.

35 (b) It is the intent of the Legislature that counties encourage
36 CalWORKs recipients to participate in activities that will maximize
37 their receipt of the EITC. To this end, counties may do all of the
38 following:

39 (1) Structure welfare-to-work activities pursuant to subdivisions
40 (a) to (j), inclusive, of Section 11322.6 to give recipients the option

1 of maximizing the portion of their CalWORKs benefits that meets
2 the definition of “earned income” in Section 32(c)(2) of the Internal
3 Revenue Code.

4 (2) Inform CALWORKS recipients of each of the following:

5 (A) That earned income, either previous or future, may make
6 them eligible for the federal EITC, including retroactive EITC
7 credits and the Advance EITC, increase their federal Food Stamp
8 Program benefits, and accumulate credit toward future social
9 security income.

10 (B) That recipients, as part of their welfare-to-work plans, have
11 the option of engaging in subsidized employment and grant-based
12 on-the-job training, as specified in Section 11322.6, and that
13 participating in these activities will increase their earned income
14 to the extent that they meet the requirements of federal law.

15 (C) That receipt of the federal EITC does not affect their
16 CalWORKs grant and is additional tax-free income for them.

17 (D) That a CalWORKs recipient who receives the federal EITC
18 may invest these funds in an individual development account,
19 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan,
20 Coverdell ESA, or restricted account, and that investments in these
21 accounts will not make the recipient ineligible for CalWORKs
22 benefits or reduce the recipient’s CalWORKs benefits.

23 (3) At each regular eligibility redetermination, the county shall
24 ask each recipient whether the recipient is eligible for and takes
25 advantage of the EITC. If the recipient may be eligible and does
26 not participate, the county shall give the recipient the federal EITC
27 form and encourage and assist the recipient to take advantage of
28 it.

29 (c) (1) No later than December 1, 2008, the State Department
30 of Social Services shall develop guidelines that counties may adopt
31 to carry out the intent of this section and shall present options to
32 the Governor and Legislature for any legislation necessary to
33 further carry out the intent of this section.

34 (2) In developing the guidelines and legislative options, the
35 department shall consult and convene at least one meeting of
36 subject-matter experts, including representatives from the
37 Assembly and Senate Human Services Committees, Assets for All
38 Alliance, Asset Policy Initiative of California, California Budget
39 Project, California Catholic Conference, California Council of
40 Churches, California Family Resource Association, California

1 State Association of Counties, CFED, County Welfare Directors
2 Association of California, Federal Reserve Bank of San Francisco,
3 Legislative Analyst's Office, Lifetime, National Council of
4 Churches, National Economic Development and Law Center, New
5 America Foundation, Public Policy Institute of California,
6 University of California at Los Angeles Law School, United States
7 Internal Revenue Service, and Western Center on Law and Poverty.
8 Nothing in this section requires the department to compensate or
9 pay expenses for any person it consults or invites to the meeting
10 or meetings.

11 SEC. 5. Section 11322.6 of the Welfare and Institutions Code
12 is amended to read:

13 11322.6. The welfare-to-work plan developed by the county
14 welfare department and the participant pursuant to this article shall
15 provide for welfare-to-work activities. Welfare-to-work activities
16 may include, but are not limited to, any of the following:

- 17 (a) Unsubsidized employment.
- 18 (b) Subsidized private sector employment.
- 19 (c) Subsidized public sector employment.
- 20 (d) Work experience, which means public or private sector work
21 that shall help provide basic job skills, enhance existing job skills
22 in a position related to the participant's experience, or provide a
23 needed community service that will lead to employment. Unpaid
24 work experience shall be limited to 12 months, unless the county
25 welfare department and the recipient agree to extend this period
26 by an amendment to the welfare-to-work plan. The county welfare
27 department shall review the work experience assignment as
28 appropriate and make revisions as necessary to ensure that it
29 continues to be consistent with the participant's plan and effective
30 in preparing the participant to attain employment.
- 31 (e) On-the-job training.
- 32 (f) (1) Grant-based on-the-job training, which means public or
33 private sector employment or on-the-job training in which the
34 recipient's cash grant, or a portion thereof, or the aid grant savings
35 resulting from employment, or both, is diverted to the employer
36 as a wage subsidy to partially or wholly offset the payment of
37 wages to the participant, so long as the total amount diverted does
38 ~~not exceed the family's maximum aid payment. If a job termination~~
39 ~~or other event results in the employer paying the recipient less than~~
40 ~~the portion of the recipient's cash grant diverted to the employer,~~

~~the county may, at its discretion, increase the recipient's cash grants by the amount of the difference and the employer shall return the difference to the county. not exceed the family's maximum aid determination.~~

(2) The county may, at its discretion, increase the grant of a participant engaging in grant-based on-the-job training by a monthly work allowance of ninety (\$90) to offset the participant's employee taxes and other costs associated with working and thus prevent the participant's disposable income from decreasing as a result of working. The work allowance shall be 100 percent state funded, with no county share of cost.

(3) A county shall not assign a participant to grant-based on-the-job training unless and until the participant has voluntarily agreed to participate in grant-based on-the-job training by executing a voluntary agreement form, which shall be developed by the department. The agreement shall include, but not be limited to, information on the following:

(A) The work allowance, pursuant to paragraph (2).

(B) How job termination or another event will not result in loss of the recipient's grant funds, pursuant to ~~paragraph (1)~~ *department regulations*.

(C) (i) How to obtain the federal Earned Income Tax Credit (EITC), including the Advance EITC, and increased Food Stamp Program benefits, which may become available due to increased earned income.

(ii) *This subparagraph shall only become operative when and to the extent that the department determines that it reflects current federal law and Internal Revenue Service regulations.*

(D) How these financial supports should increase the participant's current income and how increasing earned income should increase the recipient's future social security income.

(4) Grant-based on-the-job training shall include community service positions pursuant to Section 11322.9.

(5) Any portion of a wage from employment that is funded by the diversion of a recipient's cash grant, or the grant savings from employment pursuant to this subdivision, or both, shall not be exempt under Section 11451.5 from the calculation of the income of the family for purposes of subdivision (a) of Section 11450.

(g) Supported work or transitional employment, which means forms of grant-based on-the-job training in which the recipient's

1 cash grant, or a portion thereof, or the aid grant savings from
2 employment, is diverted to an intermediary service provider, to
3 partially or wholly offset the payment of wages to the participant.

4 (h) Workstudy.

5 (i) Self-employment.

6 (j) Community service.

7 (k) Adult basic education, which shall include reading, writing,
8 arithmetic, high school proficiency, or general educational
9 development certificate of instruction, and
10 English-as-a-second-language. Participants under this subdivision
11 shall be referred to appropriate service providers that include, but
12 are not limited to, educational programs operated by school districts
13 or county offices of education that have contracted with the
14 Superintendent of Public Instruction to provide services to
15 participants pursuant to Section 33117.5 of the Education Code.

16 (l) Job skills training directly related to employment.

17 (m) Vocational education and training, including, but not limited
18 to, college and community college education, adult education,
19 regional occupational centers, and regional occupational programs.

20 (n) Job search and job readiness assistance, which means
21 providing the recipient with training to learn job seeking and
22 interviewing skills, to understand employer expectations, and learn
23 skills designed to enhance an individual's capacity to move toward
24 self-sufficiency, including financial management education.

25 (o) Education directly related to employment.

26 (p) Satisfactory progress in secondary school or in a course of
27 study leading to a certificate of general educational development,
28 in the case of a recipient who has not completed secondary school
29 or received such a certificate.

30 (q) Mental health, substance abuse, and domestic violence
31 services, described in Sections 11325.7 and 11325.8, and Article
32 7.5 (commencing with Section 11495), that are necessary to obtain
33 and retain employment.

34 (r) Other activities necessary to assist an individual in obtaining
35 unsubsidized employment.

36 Assignment to an educational activity identified in subdivisions
37 (k), (m), (o), and (p) is limited to those situations in which the
38 education is needed to become employed.

39 SEC. 6. Section 15204.6 of the Welfare and Institutions Code
40 is amended to read:

1 15204.6. (a) Contingent upon a Budget Act appropriation, a
2 Pay for Performance Program shall provide additional funding for
3 counties that meet the standards developed according to subdivision
4 (c) in their welfare-to-work programs under Article 3.2
5 (commencing with Section 11320) of Chapter 2. The state shall
6 have no obligation to pay incentives earned that exceed the funds
7 appropriated for the year in which the incentives were earned.

8 (b) To the extent that funds are appropriated, the maximum total
9 funds available to each county each year under the Pay for
10 Performance Program shall be 5 percent of the funds the county
11 receives that year, less the amount for child care, from the single
12 allocation under Section 15204.2. If funds appropriated for this
13 section are less than the incentives earned under this subdivision,
14 each county's allocation under this section shall be prorated based
15 on the amount of funds appropriated for that year.

16 (c) The funds available to each county under the Pay for
17 Performance Program shall be divided each year into as many
18 equal parts as there are measures established for the year under
19 this subdivision. A county shall earn payment of one equal part
20 for each improvement standard that it achieves for the year or by
21 ranking in the top 20 percent of all counties in a measure identified
22 in paragraphs (1), (2), (3), (4), and (5), *except as provided in*
23 *subparagraph (B) of paragraph (4)*. Counties may receive a pro
24 rata share of incentive funds for each improvement standard. The
25 department shall consult with the County Welfare Directors
26 Association, legislative staff, and other stakeholders, when
27 developing improvement standards and the methodology for
28 earning and distributing incentives for each of the following
29 measures:

30 (1) The employment rate of county CalWORKs cases.

31 (2) The federal participation rates of county CalWORKs cases,
32 calculated in accordance with Section 607 of Title 42 of the United
33 States Code, but excluding individuals who are exempt in
34 accordance with Section 11320.3 and including sanctioned cases
35 and cases participating in activities described in subdivision (q)
36 of Section 11322.6. If valid data does not exist to measure this
37 outcome, the funds for this measure shall be made available for
38 the Pay for Performance Program in the following fiscal year.

1 (3) The percentage of county CalWORKs cases that have earned
2 income three months after ceasing to receive assistance under
3 Section 11450.

4 ~~(4) (A) For counties with an approved federal Earned Income~~
5 ~~Tax Credit (EITC) outreach plan, the percentage of county~~

6 (4) (A) *The percentage of county CalWORKs cases, including*
7 *cases that have ceased receiving assistance in the previous two*
8 *quarters, with earned income that equals or exceeds the income*
9 *level for the maximum EITC amount available to a household, as*
10 *determined under Section 22 of the Internal Revenue Code.*

11 *(B) This paragraph shall only become operative if the*
12 *department, in consultation with the County Welfare Directors*
13 *Association, legislative staff, and other stakeholders, determines*
14 *that implementing its provisions will not create a substantial risk*
15 *of California failing to meet federal welfare-to-work participation*
16 *goals, and shall remain operative for so long as the department*
17 *does not reverse that determination.*

18 ~~(B)~~

19 (C) The term “EITC outreach plan” means a county plan that
20 is approved by the department and designed to maximize the
21 number of CalWORKs participants enrolled in the EITC program.

22 ~~(C)~~

23 (D) The term “federal credit amount” means the amount
24 determined under Section 32 of the Internal Revenue Code.

25 (5) Any additional measures that the department may establish
26 in consultation with the County Welfare Directors Association,
27 legislative staff, and other stakeholders.

28 (d) Performance measures, standards, outcomes, and payments
29 to counties under subdivisions (a), (b), and (c) shall be based on
30 the following schedule:

31 (1) For the performance measure described in paragraph (2) of
32 subdivision (c), payments in fiscal year 2007–08 shall be based
33 on outcomes for the period of July 1, 2006, through December 31,
34 2006, compared to outcomes for the period of January 1, 2007,
35 through June 30, 2007, and payments in each subsequent fiscal
36 year shall be based on outcomes for the fiscal year prior to
37 payment, compared to outcomes for the fiscal year two years prior
38 to payment.

(2) For all other performance measures, payments shall be based on outcomes for the fiscal year prior to payment, compared to outcomes for the fiscal year two years prior to payment.

(e) The department may make further adjustments to any of the performance measures listed under subdivision (c), in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders. *The act that both amends subdivision (c) and enacts this sentence in the 2007—08 Regular Session of the Legislature shall not limit the department's authority under this subdivision.*

(f) The funds paid in accordance with this section may only be used in accordance with subdivisions (f) and (g) of Section 10544.1 and only for the purpose of enhancing family self-sufficiency. Funds earned by a county in accordance with this section shall be available for expenditure in the fiscal year that they are received and the following two fiscal years. Following the period of availability, and notwithstanding any provisions of subdivision (f) of Section 10544.1 to the contrary, any unspent balance shall revert to the Temporary Assistance for Needy Families (TANF) block grant.

(g) Any funds appropriated by the Legislature for the Pay for Performance Program, but not earned by a county, shall revert to the TANF block grant at the end of the fiscal year for which the funds were appropriated.

(h) The department shall periodically publish the outcomes measured by the Pay for Performance Program, identified by county.

(i) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section through all-county letters throughout the duration of the Pay for Performance Program.

SEC. 7. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of this act.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O